

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELIZABETH COBLE,
MILAGROS HARPER, and
DENNIS HARPER,
on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

COHEN & SLAMOWITZ, LLP,
DAVID COHEN, ESQ.,
MITCHELL SLAMOWITZ, ESQ.,
LEANDRE JOHN, ESQ., and
CRYSTAL S.A. SCOTT, ESQ.,

Defendants.

11-cv-1037 (ER)(GAY)

**DECLARATION OF PETER T. LANE, ESQ.
IN FURTHER SUPPORT OF PLAINTIFFS'
MOTION TO AMEND THE COMPLAINT**

**HON. EDGARDO RAMOS
HON. GEORGE A. YANTHIS**

PETER T. LANE, an attorney duly licensed to practice law in the State of New York, does hereby affirm under the penalty of perjury:

1. I am an associate attorney at Schlanger & Schlanger, LLP, co-counsel for Plaintiffs and, as such, am familiar with the facts and documents relevant to this dispute.
2. I make this Declaration in further support of Plaintiffs' Motion To Amend The Complaint.
3. Specifically, I submit this Declaration to place before the court attached Exhibit A, relevant pages from the Transcript of Defendant Leandre John's Deposition on December 14, 2012, referred to in Plaintiffs' Reply Memorandum of Law.
4. For the reasons set forth more fully in Plaintiffs' Reply Memorandum of Law, Plaintiffs' Motion to Amend the Complaint should be granted in its entirety.

Dated: New York, New York
March 1, 2013

Respectfully Submitted,

/s/ Peter T. Lane
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EXHIBIT A

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

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4 ELIZABETH COBLE, MILAGROS HARPER
5 and DENNIS HARPER, on behalf of
6 themselves and all others similarly
7 situated.

8 Plaintiffs,

9 v.

11-CV-01037 (JFM)

10 COHEN & SLAMOWITZ, LLP,
11 DAVID COHEN, ESQ.,
12 MITCHELL SLAMOWITZ, ESQ.
13 LEANDRE JOHN, ESQ.,
14 CRYSTAL S.A. SCOTT, ESQ.

15 Defendants.

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13 December 14, 2012
14 9:30 a.m.

15
16 Deposition of LEANDRE JOHN, taken by
17 plaintiffs, pursuant to Rule 30(b)(6), at the
18 offices of Schlanger & Schlanger, 9 East 40th
19 Street, New York, NY 10016, before Joseph B.
20 Pirozzi, a Registered Professional Reporter
21 and Notary Public of the State of New York.
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25

1
2 for purchase of index numbers?

3 A. These are for index numbers.

4 Q. How do you know that?

5 A. I can see there is a 45 dollar fee
6 is associated with the files.

7 Q. Is that the cost of an index
8 number in 2005 to the best of your
9 recollection?

10 A. Yes.

11 Q. And so this is a different kind of
12 check request than the one we were just
13 looking at as Exhibit 4, right?

14 A. Correct.

15 Q. And each of these represents an
16 incident of service by Midlantic, is that
17 correct, other than the pages which are
18 copies of the actual checks, correct?

19 A. Yes.

20 Q. So let's look at the first page,
21 if you would. It's Bates stamped C&S 1504.
22 The first column is Court and that would be
23 the court in which the index numbers are
24 printed, right?

25 A. Correct.

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Q. And the file number is file number the number at Cohen & Slamowitz. The next column is case and it's the case that the file number is purchased, correct?

A. Yes.

Q. What's been redacted here are the defendant's name?

A. Yes.

Q. Next column date of service, the that's the date of service in which the process service was purchased, right?

A. Correct.

Q. The next number says I N D what does that mean?

A. Individual.

Q. Are these next four columns had --

A. Types of service.

Q. What does individual mean in that context?

A. Individual would be akin to personal service on the named defendant.

Q. And the next column says S UBS, do you know what that means?

A. That means substitute service

meaning substitute list has been completed.

Q. What does that means?

A. Substitute service means of serving for another individual.

Q. Next column says N/ML. What does that stand for?

A. Nail and mail. Yes.

Q. And that we addressed already?

A. Yes.

Q. And in this process the notice is affixed to the door and mailed to the defendant, right?

A. Correct.

Q. A prerequisite to that form of service is that there has to be three attempts to serve by other means of presence?

A. Due diligence, yes.

Q. Yes, meaning three attempts, right?

A. Yes.

Q. The next column says CORP, what does that stand for, corporate?

A. Correct.

Q. What does that mean?

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2 A. I believe that's service on a
3 corporation.

4 Q. If you go through this document it
5 looks like the vast majority of service was
6 made by nail and mail, is that fair to say?

7 A. That's fair to say.

8 Q. Is that consistent with your
9 understanding that the vast majority of
10 service was service process was?

11 A. Yes.

12 Q. That's more by nail and mail?

13 A. Correct.

14 Q. Has that been true since 2002?

15 A. As far as I can recall, yes.

16 Q. Do you have any sense of the
17 percentage of service that is accomplished in
18 collection actions by nail and mail?

19 A. I would say over 80 percent.

20 Q. And there are a number of pages
21 that are disbursed through this document that
22 look to be check stubs, correct?

23 A. Yes.

24 Q. And those are consistent with the
25 way checks are delivered by Cohen & Slamowitz

1
2 to entities like Midlantic, right, that
3 there's a stub with a check attached to it,
4 correct?

5 A. Yes.

6 Q. Presumably these are the stubs
7 separated from the checks, correct?

8 A. Yes.

9 Q. And it's one piece of proof that
10 the check without to pay for these invoices,
11 correct?

12 A. Correct.

13 (E-mail dated May 10, 2005 marked
14 Exhibit 6 for identification)

15 Q. I have placed before you a
16 document labeled Exhibit 6. The Bates label
17 on it starts with C&S 618 and runs through
18 C&S 625. Do you see that?

19 A. Yes.

20 Q. Is it fair to say that these are
21 copies of e-mails generated at Cohen &
22 Slamowitz?

23 A. Yes.

24 Q. Would this be the result of a
25 search for Midlantic in Cohen & Slamowitz's